

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

## PRINCE KENNEDY,

Petitioner,

5

## PAT GLEBE.

### Respondent.

CASE NO. C11-5496-BHS-JRC

## REPORT AND RECOMMENDATION

NOTED FOR: November 18, 2011

This petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 has

been referred to United States Magistrate Judge J. Richard Creature pursuant to 28 U.S.C.

§ 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4. Petitioner

has filed a motion for voluntary dismissal after the respondent has answered the petition.

and shown that the petition is second or successive.

Pursuant to Fed. R. Civ. P. 41 (2) the Court recommends the petition be dismissed

without prejudice. Prior to filing a second or successive petition, Mr. Kennedy needs

leave from the Ninth Circuit. See Ninth Circuit Rule 22-3(a). The Court does not

1 recommend any terms or conditions on this dismissal, however, petitioner is warned that  
2 repeated filings of this nature may result in an award of costs or other sanctions. See Fed.  
3 R. Civ. P. 41 (2)

4 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have  
5 fourteen (14) days from service of this Report to file written objections. See also Fed. R.  
6 Civ. P. 6. Failure to file objections will result in a waiver of de novo review by the  
7 District Court Judge. See, 28 U.S.C. 636 (b)(1)(C). Accommodating the time limit  
8 imposed by Rule 72(b), the clerk is directed to set the matter for consideration on  
9 November 18, 2011, as noted in the caption.

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11 Dated this 11th day of October, 2011.

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14 J. Richard Creatura  
15 United States Magistrate Judge  
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